

§ [9.1-185](#). Definitions.

As used in this article, unless the context requires a different meaning:

"Agent" means a person who is a licensed bail bondsman who has been given power of attorney to act on the behalf of a licensed property bail bondsman.

"Bail bondsman" means any person who is licensed by the Department who engages in the business of bail bonding and is thereby authorized to conduct business in all courts of the Commonwealth.

"Board" means the Criminal Justice Services Board.

"Certificate" means a certificate issued by a judge on or before June 30, 2005, pursuant to former § [19.2-152.1](#).

"Department" means the Department of Criminal Justice Services.

"Property bail bondsman" means a person licensed pursuant to this article who, for compensation, enters into a bond or does so through his agent and who pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond as defined in § [19.2-119](#) that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

"Surety bail bondsman" means a person licensed pursuant to this article who is also licensed by the State Corporation Commission as a property and casualty insurance agent, and who sells, solicits, or negotiates surety insurance as defined in § [38.2-121](#) on behalf of insurers licensed in the Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in § [19.2-119](#), that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

§ [9.1-185.1](#). Inapplicability of this article.

This article shall not apply to a person who does not receive profit or consideration for his services.

§ [9.1-185.2](#). Powers of the Criminal Justice Services Board relating to bail bondsmen.

The Board shall have full regulatory authority and oversight of property and surety bail bondsmen.

The Board shall adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail bonding within the Commonwealth. The Board's regulations shall include but not be limited to regulations that (i) establish the qualifications of applicants

for licensure and renewal under this article; (ii) examine, or cause to be examined, the qualifications of each applicant for licensure, including when necessary the preparation, administration, and grading of examinations; (iii) levy and collect nonrefundable fees for licensure and renewal that are sufficient to cover all expenses for administration and operation of a program of licensure; (iv) ensure continued competency and prevent deceptive or misleading practices by practitioners; (v) administer the regulatory system; (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated by the Board; (vii) provide for investigations and appropriate disciplinary action if warranted; (viii) establish standards for professional conduct, solicitation, collateral received in the course of business, firearms training and usage, uniforms and identification, documentation and recordkeeping requirements, reporting requirements, and methods of capture for the recovery of bailees; and (ix) allow the Board to suspend, revoke or refuse to issue, reissue or renew a license for just cause. The Board shall not adopt compulsory, minimum, firearms training standards in excess of 24 hours per year for bail bondsmen. In adopting its regulations, the Board shall seek the advice of the Private Security Services Advisory Board established pursuant to § [9.1-143](#).

§ [9.1-185.3](#). Powers of Department of Criminal Justice Services relating to bail bondsmen.

A. In addition to the powers otherwise conferred upon it by law, the Department may (i) charge each applicant for licensure a nonrefundable fee as established by the Board to cover the costs of processing an application for licensure, enforcement of the regulations, and other costs associated with the maintenance of the program of regulation; (ii) charge nonrefundable fees for training, processing school certifications and enforcement of training standards; (iii) conduct investigations to determine the suitability of applicants for licensure; and (iv) conduct investigations to determine if any disciplinary actions against a licensed bondsman are warranted. For purposes of determining eligibility for licensure, the Department shall require the applicant to provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Central Criminal Records Exchange for the purpose of conducting a Virginia criminal history records search. The Central Criminal Records Exchange shall forward the fingerprints and personal description to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check.

B. The Director or his designee may make an ex parte application to the circuit court for the city or county wherein evidence sought is kept or wherein a licensee does business for the issuance of a subpoena duces tecum in furtherance of the investigation of a sworn complaint within the jurisdiction of the Department or the Board to request production of any relevant records, documents and physical or other evidence of any person, partnership, association or corporation licensed or regulated by the Department pursuant to this article. The court may issue and compel compliance with such a subpoena upon a showing of reasonable cause. Upon determining that reasonable cause exists to believe that evidence may be destroyed or altered, the court may issue a subpoena duces tecum requiring the immediate production of evidence. Costs of the investigation and adjudication of violations of this article or Board regulations may be recovered. All costs

recovered shall be deposited into the state treasury to the credit of the Bail Bondsman Regulatory Fund. Such proceedings shall be brought in the name of the Commonwealth by the Department in the circuit court of the city or county in which the unlawful act occurred or in which the defendant resides. The Director, or agents appointed by him, shall have the authority to administer oaths or affirmations for the purpose of receiving complaints and conducting investigations of violations of this article, or any regulation promulgated hereunder and to serve process issued by the Department or the Board.

§ [9.1-185.4](#). Limitations on licensure.

A. In order to be licensed as a bail bondsman a person shall (i) be 18 years of age or older, (ii) have received a high school diploma or GED, and (iii) have successfully completed the bail bondsman exam required by the Board or successfully completed prior to July 1, 2005, a surety bail bondsman exam required by the State Corporation Commission under former § 38.2-1865.7.

B. The following persons are not eligible for licensure as bail bondsmen and may not be employed nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;
2. Employees of a local or regional jail;
3. Employees of a sheriff's office;
4. Employees of a state or local police department;
5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ [9.1-150.1](#) et seq.) of this chapter;
6. Employees of an office of an attorney for the Commonwealth;
7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency; and
8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 of this section.

C. The exclusions in subsection B shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

§ [9.1-185.5](#). Bail bondsman licensure requirements.

A. An applicant for a bail bondsman license shall apply for such license in a form and manner prescribed by the Board, and containing any information the Board requires.

B. Prior to the issuance of any bail bondsman license, each bondsman applicant shall:

1. File with the Department an application for such license on the form and in the manner prescribed by the Board.

2. Pass the bail bondsman exam as prescribed by the Board pursuant to this article or have successfully completed a surety bail bondsman exam as required by the State Corporation Commission under former § 38.2-1865.7. Any applicant who improperly uses notes or other reference materials, or otherwise cheats on the exam, shall be ineligible to become a licensed bail bondsman.

3. Submit to fingerprinting by a local or state law-enforcement agency and provide personal descriptive information to be forwarded, along with the applicant's fingerprints, to the Department of State Police Central Criminal Records Exchange. The Central Criminal Records Exchange shall forward the applicant's fingerprints and personal descriptive information to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. The applicant shall pay for the cost of such fingerprinting and criminal records check. The Department of State Police shall forward to the Director of the Department, or his designee, who shall be a governmental entity, the results of the records search from the Central Criminal Records Exchange and the Federal Bureau of Investigation. The Director of the Department, or his designee, who shall be a governmental entity, shall review the record and if the report indicates a prior felony conviction, the individual shall be prohibited from pursuing the application process for issuance of a bail bondsman license unless the individual submits proof that his civil rights have been restored by the Governor or other appropriate authority.

4. Submit the appropriate nonrefundable application processing fee to the Department.

C. Additionally, prior to the issuance of a property bail bondsman license, each property bail bondsman applicant shall provide proof of collateral of \$200,000 on his bonds and proof of collateral of \$200,000 on the bonds of each of his agents. Any collateral that is not in the form of real estate, cash, or certificates of deposit issued by a FDIC-insured financial institution shall be specifically approved by the Department before it may be used as collateral.

1. If the property used as collateral is real estate, such real estate shall be located in the Commonwealth. In addition, the property bail bondsman applicant shall submit to the Department:

a. A true copy of the current real estate tax assessment thereof, certified by the appropriate assessing officer of the locality wherein such property is located or, at the option of the property bail bondsman, an appraisal of the fair market value of the real

estate, which appraisal shall have been prepared by a licensed real estate appraiser, within one year of its submission.

b. A new appraisal, if, at its discretion, the Department so orders for good cause shown prior to certification. At the discretion of the Department, after the original submission of any property appraisal or tax assessment, further appraisals or tax assessments for that property may not be required more than once every five years.

c. An affidavit by the property bail bondsman applicant that states, to the best of such person's knowledge, the amount of equity in the real estate, and the amounts due under any obligations secured by liens or similar encumbrances against the real estate, including any delinquent taxes, as of the date of the submission. At its discretion, the Department may require additional documentation to verify these amounts.

2. If the property used as collateral consists of cash or certificates of deposit, the property bail bondsman applicant shall submit to the Department verification of the amounts, and the names of the financial institution in which they are held.

3. Any property bail bondsman issued a certificate by a judge pursuant to former § [19.2-152.1](#), prior to July 1, 1989, who has continuously maintained his certification and who has never provided to a court collateral of \$200,000 or more, shall continue to be exempt from the \$200,000 collateral requirements specified above. Those property bail bondsmen who are exempted from this provision shall satisfy all of the other requirements in this article for bail bondsmen, and shall provide to the Department the collateral amount to which they may bond and provide proof of his prior certification by obtaining a certified copy of: (i) the certificate issued pursuant to former § [19.2-152.1](#) and (ii) the documents held by the originating court that stated the collateral amount for which they were able to bond.

4. Each property bail bondsman, if so directed by the Department, shall place a deed of trust on the real estate that he is using for the limit of his expected bonded indebtedness to secure the Commonwealth and shall name the attorney for the Commonwealth of the affected locality as trustee under the deed of trust, and furnish the Department an acceptable appraisal and title certificate of the real estate subject to any such deed of trust.

D. Prior to the issuance of a surety bail bondsman license, each surety bail bondsman applicant shall:

1. Submit proof of current licensing as a property and casualty insurance agent validated by the State Corporation Commission.

2. Submit copies of each qualifying power of attorney that will be used to provide surety. All qualifying powers of attorney filed with the Department shall contain the name and contact information for both the surety agent and the registered agent of the issuing company. In the event an applicant for a surety bail bondsman license is unable to obtain

a qualifying power of attorney prior to the issuance of his license, he may be granted his license, on the condition that each qualifying power of attorney obtained after his licensure be filed with the Department within 30 days after its receipt. A surety bail bondsman shall not be permitted to write bail bonds for any insurance company without first filing the company qualifying power of attorney with the Department.

3. All surety bail bondsman licenses in effect with the State Corporation Commission shall become void after June 30, 2005. Applicants for licensure for bail bondsmen may submit an application to the Department on or after May 1, 2005.

4. Any surety bail bondsman license issued pursuant to this article shall terminate immediately upon the termination of the licensee's property and casualty insurance agent license, and may not be applied for again until the individual has been issued a new property and casualty insurance agent license. Upon notification from the State Corporation Commission of a license suspension, the Department shall immediately suspend a surety bondsman's license, pending the results of an investigation conducted pursuant to this article. In the event a surety bail bondsman is under investigation by the State Corporation Commission for allegations regarding his activities as a licensed property and casualty agent, the Commission shall notify the Department of such investigation and the Department and the Commission may conduct a joint investigation of the individual. All powers granted to the Department and the Commission regarding investigation and disciplinary proceedings shall be permitted to be applied to any such joint investigation, and both the Department and the Commission shall be permitted to utilize their own rules and internal procedures in determining appropriate disciplinary proceedings, if any.

§ [9.1-185.6](#). Licenses; renewal.

A. A license granted to a bondsman by the Department shall authorize such person to enter into bonds, as defined in § [19.2-119](#), in any county or city in the Commonwealth.

B. Every bail bondsman license issued pursuant to this article shall be for a term of two years.

C. A bail bondsman license may be renewed for an ensuing two-year period, upon the filing of an application in the form prescribed by the Department and payment of the nonrefundable renewal application processing fee prescribed by the Department. In addition, applicants for renewal of a bail bondsman license shall undergo a criminal history background check as set out in subdivision B 3 of § [9.1-185.5](#) and shall provide all other documentation listed in subsections C and D of § [9.1-185.5](#) as the Department deems appropriate.

D. On or before the first day of the month prior to the month his license is due to expire, the licensee shall make application for license renewal and shall at that time pay the renewal application fee.

E. Any license not renewed by its expiration date shall terminate on such date.

§ [9.1-185.7](#). Licensure of nonresidents.

A. All nonresident transfers and applicants for a bail bondsman license shall satisfy all licensing requirements for residents of the Commonwealth.

B. For the purposes of this article, any individual whose physical place of residence and physical place of business are in a county or city located partly within the Commonwealth and partly within another state may be considered as meeting the requirements as a resident of the Commonwealth, provided the other state has established by law or regulation similar requirements as to residence of such individuals.

§ [9.1-185.8](#). Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.

2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors.

3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence, extortion or untrustworthiness.

4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.

5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis gifts, not to exceed \$50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit

business, or would otherwise be a violation of Board regulations or the laws of the Commonwealth.

6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail bondsmen.

7. Fail to cooperate with any investigation by the Department.

8. Fail to comply with any subpoena issued by the Department.

9. Provide materially incorrect, misleading, incomplete or untrue information in a license application, renewal application, or any other document filed with the Department.

10. Provide bail for any person if he is also an attorney representing that person.

11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs shall contain the name and contact information for both the surety agent and the registered agent of the issuing company.

D. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs. Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses, administrative overhead and postage.

E. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of four times the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

F. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

G. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which a copy has not been filed with the Department.

H. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance agents.

§ [9.1-185.9](#). Solicitation of business; standards; restrictions and requirements.

A. Only licensed bail bondsmen shall be authorized to solicit bail bond business in the Commonwealth.

B. A licensed bail bondsman shall not:

1. Solicit bail bond business by directly initiating contact with any person in any court, jail, lock-up, or surrounding government property.
2. Loiter by any jail or magistrate's office unless there on legitimate business.
3. Refer a client or a principal for whom he has posted bond to an attorney for financial profit or other consideration.

C. The Board shall adopt regulations as to what constitutes impermissible solicitations by bondsmen, their employees and agents.

§ [9.1-185.10](#). Collateral received in the course of business; standards and requirements.

A. A licensed bail bondsman shall be permitted to accept collateral security or other indemnity from the principal, which shall be returned upon final termination of liability on the bond, including the conclusion of all appeals or appeal periods. Such collateral security or other indemnity required by the bail bondsman shall be reasonable in relation to the amount of the bond.

B. When a bondsman accepts collateral, he shall give a written receipt to the depositor. The receipt shall provide a full description of the collateral received and the terms of redemption or forfeiture. The receipt shall also include the depositor's name and contact information.

C. Any bail bondsman who receives collateral in connection with a bail transaction shall receive such collateral in a fiduciary capacity, and prior to any forfeiture of bail shall keep it separate and apart from any other funds or assets of such bail bondsman. In the event a bondsman receives collateral in the nature of a tangible good, it shall be a per se violation of the bail bondsman's fiduciary duty to make personal use of any such collateral unless there is a proper forfeiture of bail.

D. Any collateral received shall be returned with all due diligence to the person who deposited it with the bail bondsman or any assignee other than the bail bondsman as soon as the obligation is discharged and all fees owed to the bail bondsman have been paid. In any event, after a specific request for the return of the collateral by the depositor, the collateral shall be returned within 15 days after all fees owed have been paid.

§ [9.1-185.11](#). Firearms, training and usage; standards and requirements.

A. If a bail bondsman chooses to carry a firearm in the course of his duties, he shall be required to:

1. First complete basic firearms training, as defined by the Board; and

2. Receive ongoing in-service firearms training, as defined by the Board.

B. In the event a bail bondsman discharges a firearm during the course of his duties, he shall report it to the Department within 24 business hours.

§ [9.1-185.12](#). Uniforms and identification; standards and restrictions.

A. A bail bondsman shall not wear, carry, or display any uniform, badge, shield, or other insignia or emblem that implies he is an agent of state, local, or federal government.

B. A bail bondsman shall wear or display only identification issued by, or whose design has been approved by, the Department.

§ [9.1-185.13](#). Documentation and recordkeeping standards and requirements.

A. The bail bondsman shall retain, for a minimum of the three calendar years from the date of the termination of the liability:

1. Copies of all written representations made to any court or to any public official for the purpose of avoiding a forfeiture of bail, setting aside a forfeiture, or causing a defendant to be released on his own recognizance.

2. Copies of all affidavits and receipts made in connection with collateral received in the course of business.

3. Evidence of the return of any security or collateral received in the course of business, including a copy of the receipt showing when and to whom the collateral was returned.

B. Upon request of the Department, a bail bondsman shall provide any documents required to be kept pursuant to this section.

§ [9.1-185.14](#). Reporting standards and requirements.

A. Each licensed bail bondsman shall report within 30 calendar days to the Department any change in his residence, name, business name or business address, and ensure that the Department has the names and all fictitious names of all companies under which he carries out his bail bonding business.

B. Each licensed bail bondsman convicted of a felony shall report within 30 calendar days to the Department the facts and circumstances regarding the criminal conviction.

C. Each licensed bail bondsman shall report to the Department within 30 calendar days of the final disposition of the matter any administrative action taken against him by another governmental agency in the Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to order or other relevant legal documents.

D. Each licensed property bail bondsman shall submit to the Department, on a prescribed form, not later than the fifth day of each month, a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond.

E. Each licensed property bail bondsman shall report to the Department any change in the number of agents in his employ within seven days of such change and concurrently provide proof of collateral of \$200,000 for each new agent, in accordance with subsection C of § [9.1-185.5](#).

F. Each licensed surety bail bondsman shall report to the Department within 30 days any change in his employment or agency status with a licensed insurance company. If the surety bail bondsman receives a new qualifying power of attorney from an insurance company, he shall forward a copy thereof within 30 days to the Department, in accordance with subdivision D 2 of § [9.1-185.5](#).

G. Each licensed property bail bondsman shall report to the Department within five business days if any new lien, encumbrance, or deed of trust is placed on any real estate that is being used as collateral on his or his agents' bonds as well as the amount it is securing. The reporting requirement deadline is deemed to begin as soon as the licensed property bail bondsman learns of the new lien, encumbrance, or deed of trust, or should have reasonably known that such a lien, encumbrance, or deed of trust had been recorded.

§ [9.1-185.15](#). Recovery of bailees; methods of capture; standards and requirements; limitations.

A. During the recovery of a bailee, a bail bondsman shall have a copy of the relevant recognizance for the bailee. In the event a bail bondsman is recovering the bailee of another bondsman, he shall also have written authorization from the bailee's bondsman, obtained prior to effecting the capture. The Department shall develop the written authorization form to be used in such circumstances.

B. A bail bondsmen shall not enter a residential structure without first verbally notifying the occupants who are present at the time of the entry.

C. Absent exigent circumstances, a bail bondsman shall give prior notification of at least 24 hours to local law enforcement or state police of the intent to apprehend a bailee. In all cases, a bail bondsman shall inform local law enforcement within 30 minutes of capturing a bailee.

D. A bail bondsman shall not break any laws of the Commonwealth in the act of apprehending a bailee.

§ [9.1-185.16](#). Department submission to the State Corporation Commission.

A. The Department shall provide to the State Corporation Commission a list of all newly licensed surety bondsmen each month.

B. When the Department terminates a surety bail bondsman's license, the Department shall immediately notify the State Corporation Commission of the surety bail bondsman's termination and the reason for such termination.

§ [9.1-185.17](#). Department submissions to local and regional correctional facilities.

Once a year, the Department shall provide to each local and regional correctional facility a list of all licensed bail bondsmen in the Commonwealth. The list shall consist of each bondsman's individual name, the name of the bondsman's business and the address where the bondsman's office is physically located. The Department shall update the list monthly and have the list available on its website.

§ [9.1-185.18](#). Penalties.

It shall be a Class 1 misdemeanor to engage in bail bonding for profit or other consideration without a valid license issued by the Department in this Commonwealth. A third conviction shall be a Class 6 felony.

Any person licensed by the Board pursuant to this article who violates any statute or Board regulation who is not criminally prosecuted shall be subject to the monetary penalty provided in this section. If the Board determines that a respondent has committed the violation complained of, the Board shall determine the amount of the monetary penalty for the violation, which shall not exceed \$2,500 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth.